

Bill Pasternak - Consultant

Broadcasting and Teleproduction
28197 Robin venue
Santa Clarita Ca. 91350
Tel/Fax: (661) 296-7180
E-Mail: billwa6itf@aol.com

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Before the Federal Communications Commission)
in the matter of: RM-10740)
Opposition comments of William M. Pasternak)
Amateur Service licensee WA6ITF)

1: Introduction:

I am William M. "Bill" Pasternak. I hold a General class Amateur Service license, the FCC assigned call letters WA6ITF, and have been an active radio amateur since 1958 (first licensed as WA2HVK at my former residence in Brooklyn New York at age 17).

By profession I am a Broadcast Engineer, Television Film and Video Producer, author and lecturer. Since 1975 I have been directly involved in the production of every film and/or video dealing with the Amateur Radio Service.

Beginning in 1973 and continuing to this day I have been an author serving the Amateur Radio Service through regular columns appearing in 73 Amateur Radio Magazine (1973 to 1994) and Worldradio Magazine (1995 through present day). I have also had articles published in numerous other magazines directed toward Amateur Radio and other personal communications users including the well respected CQ, CQ-VHF and Popular Communications.

In addition, since 1976, beginning as "The Westlink Radio Network" and continuing through the present as "The Amateur Radio Newslite, Inc." I have personally written, produced or supervised the production of 1,352 consecutive weeks of news bulletins distributed by both Internet audio and dial-in telephone to radio amateurs worldwide. This latter places this writer in a position of day-to-day knowledge of what's transpiring within the ranks of Amateur Radio operations that is far greater than most others.

2: My commentary is in opposition to RM-10740:

To avoid any ambiguity, let it be stated that these comments are file in OPPOSITION to RM-10740 in whole and in part. I believe that what follows will establish that the need for RM-10740 is non existent and therefore must be rejected *en toto*.

3: Background:

The petitioners, Michael Lonneke WØYR, and Melvin Ladisky W6FDR claim that hams from one of the groups come on during radio contests, and are found tweaking their transmitters to splatter purposely to provide elbowroom on a very crowded band. The two men characterize the other group as those who experiment with high-fidelity audio, apparently trying to replicate the sound of FM Broadcast stations (Enhanced SSB).

4: The petitioners provide no proof that a massive interference problem really exists:

The Petitioners have cited what they see as incidents of interference to ham radio operations on the short-wave amateur radio bands of 28.8 MHz and below as their reason for asking the Federal Communications Commission to modify the Part 97 Rules to place mandatory bandwidth constraints on the two modes of voice communications on the High Frequency ham bands. The modes that they target are Single Sideband (commonly known as "SSB") and Full Carrier Amplitude Modulation (commonly known as "AM"). But in total, they fail to prove that any major problem exists.

5: No illegal acts have taken place:

While by inference the petitioners claim that this is a problem that this could become a matter of major concern, they provide absolutely nothing in the way of substantiating documentation beyond the small number of informational letters to operators using "Enhanced SSB" by FCC Special Counsel for Amateur Radio Enforcement W. Riley Hollingsworth. It must be noted herein that these letters were far less in number than a dozen and in no way construed that any violation of Part 97 had occurred. Indeed, these letters only explained Mr. Hollingsworth's personal viewpoint that wider than normal SSB signals were really not warranted in the crowded High Frequency spectrum. In no case were such signals deemed illegal under Part 97 nor did the Commission impose any penalty on the operators using this form of communications. Nor did the letters tell those involved in experimentation with "Enhanced SSB" to curtail their operations.

6: What the FCC says is the basis and purpose of the Amateur Radio Service:

What the petitions fail to take note of is the very "Basis and Purpose" of the Amateur Radio Service as outlined on Section 97.1 of the Commission's rules which give the following five (5) reasons that the United States even permits an Amateur Radio Service to exist it states:

(a) Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications.

(b) Continuation and extension of the amateur's proven ability to contribute to the advancement of the radio art.

(c) Encouragement and improvement of the amateur service through rules which provide for advancing skills in both the communications and technical phases of the art.

(d) Expansion of the existing reservoir within the amateur radio service of trained operators, technicians, and electronics experts.

(e) Continuation and extension of the amateur's unique ability to enhance international goodwill.

7: The Impact of Part 97.1 on this proceeding:

Please take note that no place within these rules does it state that "contesting" (often termed as "Radiosport" or "Radiosporting") must be protected from occasional or even frequent interference that might be caused by ongoing technical experimentation. Indeed, Section 97.1(b) clearly states, with absolutely no ambiguity, that Radio Amateurs licensed by the Federal Communications Commission are expected to continue and extend of the amateur's proven ability to contribute to the advancement of the radio art.

Further, no place within Part 97 does it say that technological experimentation should be placed on hold so that activities such as DX'ing (contacting far-off stations), contesting, etc. can proceed on an interference free basis. To my reading of the rules, the Commission places technologic achievement well ahead of personal satisfaction at some form of radiosport when in Section

97.1(d) it specifically calls for the United States Amateur Radio Service to continue to expand the existing reservoir of trained operators, technicians, and electronics experts.

8: The FCC would be forced to rewrite 97.1 to codify RM-10740:

As established on the foregoing, the only way I can see the FCC acting with favor in regard to RM-10740 would be by issuing a parallel Rule Making to delete Sections 97.1(b) and (97.1(d) from its rules and there-by nullifying this area of the Basis and Purpose of the. This writer would be opposed to such a move because it would -- in my opinion -- dilute the United States Amateur Radio Service to a point where-in there would be no reason for it to continue to exist. Historically, the Commission itself has noted the need to retain all aspects of Section 97.1 -- as written -- and has staved off any attempts to modify or delete it.

9: Experimenters are the Basis and Purpose of the U.S. Amateur Service:

Based on Section 97.1, I must ask the Commission if the very people whom the petitioners are complaining about are not among the real "leaders" in technological innovation? This, by their collective attempt to enhance the state of the art in voice communications by working to improve the quality, and, there-by the overall enjoyment of SSB by all who will eventually use this mode -- both as radio amateurs and, through trickle-down -- in other radio services as well.

By contrast, it appears to this writer that the petitioners seem to be more interested in protecting the status-quo of both technology and on-air operations to minimize the impact of telecommunications experimentation on contesting and other "non-vital" Amateur Service communications.

10: The Amateur spectrum is a shared resource:

While contesting (Radiosport) has become an integral part of Amateur Radio world-wide, there are no rules specific within Part 97 to protect it against interference from other bonafide users and uses of the spectrum assigned to the United States Amateur Radio Service. Indeed, the rules are such where-in it is assumed and mandated that all bonafide users are to share all available spectrum as outlined by the constraints of their license class, and since the amount of spectrum is finite but the usage level varies, therefore it is implied that some level of interference is to be expected and is to be tolerated.

(Note: Only under Section 97.401 {Operation during a disaster} do the rules specifically pave a way for a temporary non-interference declaration to be issued by the FCC and only for the term of the emergency.)

Indeed, Section 97.101(d) only states: "No amateur operator shall willfully or maliciously interfere with or cause interference to any radio communication or signal." Since there has never been any declaration that a true "malicious interference" problem exists, much of the rationale by the petitioners is negated.

11: The FCC should not provide protection to any one mode unless it is willing to enact similar rules for all modes:

This is a rather sweeping statement on the part of this commenter, so please permit me to explain.

If the Commission should act with favor on RM-10740, it will most assuredly be looked upon as a precedent being set by the Commission to provide "by-mode" and/or "by interest" protection to a select sub group within the United States Amateur Radio community, while not affording the same equal protection to other sub-groups. As a result, I would foresee users of various modes and interests petitioning the Commission for similar non-interference assurances as would be

provided to SSB users if RM-10740 is sent on to become a Notice of Proposed Rule Making, and using RM-10740 as a “legal lever” (case law) on which to base such demands.

12: Is the FCC prepared to become Amateur Radio’s police force?

At this point I must ask the rhetorical question: “Does the Commission really want to become the “police force” of Amateur Radio, expending its enforcement resources making certain that the users of each mode and or special interest group in no way interfere with the users of any other mode and or special interest group?” I would think not, but in reality this is exactly what codifying RM-10740 or any similar request will quickly lead to.

Only the FCC or a contractor certified by the FCC is really equipped to accurately measure the bandwidth of a signal to the exacting standards for developing case law. If RM-10740 is codified, it will open a “Pandora’s Box” of complaints from those who feel another Amateur Service licensee is operating outside of the strict parameters set forth. Since most radio amateurs cannot afford “Laboratory Standard” grade test gear, it will fall to the FCC Engineers or to those contracted by the FCC to certify the accuracy of complaints. As it would be unfair (and likely illegal) for the agency to demand a radio amateur spend thousands of dollars in station compliance certification fees, the agency and the taxpayers would be forced to shoulder the financial burden of each investigation.

Again writing from a historic point of view, the United States Amateur Radio Service has a long and very proud tradition of self-regulation (not self-policing as is misunderstood by many in and out of the hobby). The FCC has long said that keeping the Part 97 Rules and Regulations both minimal and simple (as exemplified in the “Plain Language Rewrite” of the 1990’s) leads to a vibrant service that has the ability to rectify nearly all of its internal problems and deal with all but the most egregious regulatory violators.

13: This is really a matter of perception:

In this commenters view, the small number of those involved in experimentation with “Enhanced SSB” vs. the far larger number of users of conventional SSB in the High Frequency spectrum shows the claim of wholesale interference to be an issue of “perception” rather than one based in “reality” or “fact.” With only a very small number of licensed radio amateurs working on improving the audio quality of SSB, in no way is the perceived problem of “Enhanced SSB” be one that can even remotely be considered an egregious rules violation. As noted earlier, experimentation with an emerging technology is not in any way construed as wanton and/or malicious interference. It is experimentation to improve the “state of the art” in telecommunications and is fully allowable and embraced under the Part 97 Amateur Service Rules.

14: This commenter asks that you declare RM-10740 null and void:

I submit to you that, based on the foregoing, as well as on Part 97.1(b) and 97.101(d) that the petitioner(s) complaint regarding the technological development and on-air testing of SSB signals with improved fidelity is non existent in the context of it being an evolving major problem, and there feel you should consider RM-10740 (and any request for subsequent action in this regard) as both null and void and that you dismiss it without any further action.

Submitted respectfully,
(Legal electronic signature)
William M. Pasternak
Amateur Licensee WA6ITF